

### **REMARKS**

Applicants have now had an opportunity to carefully consider the Examiner's comments set forth in the Office Action of April 19, 2007.

Reconsideration of the Application is requested.

#### **The Office Action**

Claims 1, 2, 3, 4, and 18 were rejected for obviousness-type double-patenting, based upon claim 20 of U.S. Patent No. 7,156,970 ('970 patent). Claim 8 was rejected for obviousness-type double-patenting, based upon claims 16 and 20 of the '970 patent.

Claims 1, 2, 4, 8, and 18-22 were rejected under 35 U.S.C. §102(e) for alleged anticipation of the noted '970 patent.

Claims 3, 9, 10-12, 15-17, 23, and 24 were rejected under 35 U.S.C. §103(a) for alleged obviousness by the noted '970 patent.

Claim 14 was objected to for a typographical error.

The Examiner indicated that claims 5-7, 13, and 14, although presently objected to, would be allowable if appropriately rewritten.

In view of the clarifying amendments, remarks, Terminal Disclaimer and Declarations enclosed herewith, it is respectfully submitted that all pending claims, i.e., 1-24 are in condition for allowance.

#### **A. Obviousness-Type Double-Patenting Rejection of Claims 1, 2, 3, 4, 8, and 18 Based Upon U.S. Patent No. 7,156,970 Must Be Withdrawn**

These claims were rejected for obviousness-type double-patenting based upon claims 16 and 20 of the noted '970 patent.

Applicants hereby submit a Terminal Disclaimer, disclaiming any patent resulting from claims of this application that would extend beyond claims of the noted '970 patent.

Accordingly, it is requested that this ground of rejection be withdrawn.

#### **B. Rejection of Claims 1, 2, 4, 8, and 18-22 Under 35 U.S. C. §102(e) Based Upon the '970 Patent Must Be Withdrawn**

These claims were rejected for alleged anticipation by the '970 patent.

A Declaration under 37 CFR §1.132 is enclosed herewith. In that Declaration, the '970 patent is removed as prior art from the rejection of claims 1, 2, 4, 8, and 18-22.

Specifically, since inventors Lean, Volkel, and Hsieh declare that the disclosure in the '970 patent cited in the rejection of these claims was derived from them, the subject matter of the claims at issue is not an invention "by another."

In view of the enclosed Declaration under 37 CFR §1.132, it is respectfully requested that this ground of rejection has been overcome and should now be withdrawn.

**C. Rejection of Claims 3, 9, 10-12, 15-17, 23, and 24 under 35 U.S.C. §103(a) Based Upon the '970 Patent Must Be Withdrawn**

These claims were rejected for alleged obviousness by the '970 patent.

According to 35 U.S.C. §103(c), "[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person."

Enclosed herewith is a Declaration which demonstrates that the subject matter of the '970 patent, was at the time that the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

In view of the enclosed Declaration, it is respectfully requested that this ground of rejection has been overcome and should now be withdrawn.

**D. Objection to Claim 14 Must Be Withdrawn**

In accordance with the Examiner's helpful suggestion, the noted typographical error in claim 14 has been remedied.

**E. Closing**

Claims 5-7, 13, and 14 were previously indicated as being allowable if rewritten.

In view of the clarifying amendments, remarks, attached Terminal Disclaimer, and the noted Declarations, it is respectfully submitted that claims 1-4, 8-12, and 15-24 are also in condition for allowance.

**CONCLUSION**

For the reasons detailed above, it is submitted all claims remaining in the application (Claims 1-24) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

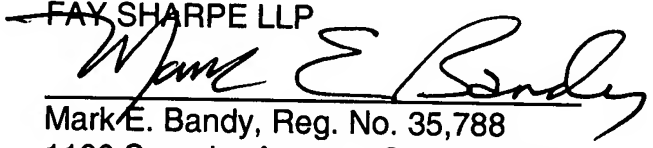
No additional fee is believed to be required for this Amendment A. However, the undersigned attorney of record hereby authorizes the charging of any necessary fees, other than the issue fee, to Xerox Deposit Account No. 24-0037.

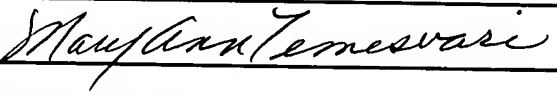
In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to call the undersigned, at Telephone Number (216) 861-5582.

Respectfully submitted,

July 19, 2007  
Date

~~FAY SHARPE LLP~~

  
Mark E. Bandy, Reg. No. 35,788  
1100 Superior Avenue, Seventh Floor  
Cleveland, OH 44114-2579  
216-861-5582

<b><u>CERTIFICATE OF MAILING OR TRANSMISSION</u></b>	
I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being	
<input checked="checked" type="checkbox"/>	deposited with the United States Postal Service as First Class Mail, addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.
<input type="checkbox"/>	transmitted to the USPTO by facsimile in accordance with 37 CFR 1.18 on the date indicated below.
Express Mail Label No.:	Signature: 
Date: July 19, 2007	Name: Mary Ann Temesvari